

**State of Minnesota
Department of Commerce
Bulletin 2004-5**

**To: All Insurance Producers Licensed in Minnesota
All Insurance Companies Licensed in Minnesota**

**RE: Dishonest, Deceptive and Misleading Conduct Involving the Offer
and Sale of Insurance in Minnesota**

This bulletin is being sent as both a notice and a reminder of the obligations imposed by Minnesota law on any insurance producer or insurance company doing business in Minnesota. Recent investigations and legal action initiated by the New York Attorney General against Marsh & McLennan Companies Inc. and Marsh Inc. have resulted in a heightened concern about undisclosed, inappropriate, unconscionable and potentially illegal business arrangements between insurance brokers/producers and insurance companies in Minnesota as well as other parts of the country.

Minnesota Laws Chapters 60A to 72A specifically prohibit insurers and producers from engaging in dishonest, deceptive or misleading practices when dealing with policyholders. Plainly stated the statutes require industry participants to treat their customers fairly and honestly.

Any insurers or producers conducting insurance business in Minnesota who engage in deceptive or dishonest practices will be subject to investigation and severe sanctions. Minnesota law prohibits insurers and producers from engaging in fraudulent, coercive or dishonest practices when dealing with Minnesota insureds or applicants. Minnesota Statutes §§60K.43 and 72A.20, subd. 18 also specifically provide the commissioner with authority to discipline agent/producers who demonstrate incompetence, untrustworthiness, or financial irresponsibility whether or not the actions involve the business of insurance in Minnesota or elsewhere. Obviously, if substantiated, the New York Attorney General's allegations of: misrepresentation, coercion, bid manipulation, and price fixing would also constitute violations of Minnesota as well as New York law.

Insurers and producers are also reminded that Minnesota laws, such as Minnesota Statutes §60K.46, subd. 2, require disclosures related to fees charged in connection with insurance transactions. In addition, the department believes that undisclosed sources of compensation between an producer and insurer could constitute evidence of a potential conflict of interest and a potentially misleading and deceptive practice. Minnesota licensees are encouraged to review their business practices to ensure that they are not violating any provisions of Minnesota insurance laws.

The Market Assurance Division of the Department of Commerce has initiated an investigation to determine if conduct similar to that discovered in New York has also occurred in Minnesota and if so to what extent. Once the investigation has been concluded, the Department will implement appropriate and corrective action. Anyone having information or comments regarding any suspected violation should contact Enforcement Director, Gary LaVasseur, at 651-296-3528 or gary.lavasseur@state.mn.us.